

SENATE BILL 298

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2003 Regular Session
3lr0286
CF 3lr0285

By: **Senator McFadden (Joint Audit Committee) and Senators Astle, Hafer,
Hogan, and Lawlah Lawlah, and Forehand**

Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 26, 2003

CHAPTER _____

1 AN ACT concerning

2 **Attorney General - Prosecution of Criminal Offenses Reported by the Office**
3 **of Legislative Audits**

4 FOR the purpose of repealing a requirement that the Legislative Auditor report
5 certain alleged violations of law by a unit of State government or other body that
6 is audited or reviewed by the Office of the Legislative Auditor under certain
7 circumstances; repealing a requirement that the Attorney General respond to
8 certain persons regarding certain actions taken by the Attorney General based
9 on a certain report by the Legislative Auditor; authorizing the Legislative
10 Auditor to report to the Attorney General any alleged criminal violation by a
11 person discovered during the course of an audit or review; requiring the
12 Attorney General to keep a certain report of an alleged criminal violation
13 confidential under certain circumstances; authorizing the Attorney General to
14 investigate and prosecute any alleged criminal violation reported by the
15 Legislative Auditor under certain circumstances; authorizing the Attorney
16 General to exercise all the powers and duties of a State's Attorney to investigate
17 and prosecute certain alleged criminal violations under certain circumstances;
18 creating an exception to certain confidentiality requirements of the Legislative
19 Auditor under certain circumstances; and generally relating to the authority of
20 the Attorney General to investigate and prosecute certain alleged criminal
21 violations reported by the Legislative Auditor under certain circumstances.

22 BY repealing
23 Article - State Government
24 Section 2-1225
25 Annotated Code of Maryland

1 (1999 Replacement Volume and 2002 Supplement)

2 BY adding to

3 Article - State Government

4 Section 2-1225

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2002 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - State Government

9 Section 2-1226

10 Annotated Code of Maryland

11 (1999 Replacement Volume and 2002 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - State Government**

15 [2-1225.

16 (a) (1) In addition to the report under § 2-1224 of this subtitle, the
17 Legislative Auditor shall report an apparent violation of any law on use of State funds
18 by the unit of the State government or other body that is audited or reviewed.

19 (2) A report under this subsection shall be submitted to:

20 (i) the Joint Audit Committee;

21 (ii) the Executive Director;

22 (iii) the unit or body that is the subject of the report; and

23 (iv) the Office of the Attorney General.

24 (b) (1) The Legislative Auditor shall report to the Attorney General and an
25 appropriate State's Attorney an apparent default to the State for any money by an
26 officer or employee who is subject to audit or review.

27 (2) A report under this subsection shall ask the Attorney General and
28 State's Attorney to take appropriate action.

29 (c) (1) The Office of the Attorney General shall respond, in writing, to a
30 report received from the Legislative Auditor under this section.

31 (2) The response of the Attorney General shall include what actions, if
32 any, were taken as a result of the findings of the Legislative Auditor.

33 (3) The response of the Attorney General shall be submitted to:

- 1 (i) the Joint Audit Committee;
- 2 (ii) the Executive Director;
- 3 (iii) the unit or body that is the subject of the report; and
- 4 (iv) the Legislative Auditor.]

5 2-1225.

6 (A) IF THE LEGISLATIVE AUDITOR DISCOVERS ANY ALLEGED CRIMINAL
7 VIOLATION BY A PERSON DURING THE COURSE OF AN AUDIT OR REVIEW, THE
8 LEGISLATIVE AUDITOR MAY REPORT THE ALLEGED VIOLATION TO THE ATTORNEY
9 GENERAL.

10 (B) UNLESS THE ATTORNEY GENERAL DECIDES TO PROSECUTE AN ALLEGED
11 CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS SECTION, THE
12 ATTORNEY GENERAL SHALL KEEP THE REPORT OF THE LEGISLATIVE AUDITOR
13 UNDER SUBSECTION (A) OF THIS SECTION CONFIDENTIAL.

14 (C) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE ANY
15 ALLEGED CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS
16 SECTION AND HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY,
17 INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY OR BALTIMORE CITY, TO
18 INVESTIGATE AND PROSECUTE THE ALLEGED VIOLATION.

19 2-1226.

20 (a) Except as provided in § 2-1225 OF THIS SUBTITLE AND subsection (b) of this
21 section, information that an employee of the Office of Legislative Audits obtains
22 during an audit or review:

- 23 (1) is confidential; and
- 24 (2) may not be disclosed except to another employee of the Office of
25 Legislative Audits.

26 (b) The Legislative Auditor may authorize the disclosure of information
27 obtained during an audit or review only to the following:

- 28 (1) another employee of the Department, with the approval of the
29 Executive Director;
- 30 (2) federal, State, or local officials, or their auditors, who provide
31 evidence to the Legislative Auditor that they are performing investigations, studies,
32 or audits related to that same audit or review and who provide justification for the
33 specific information requested; or
- 34 (3) the Joint Audit Committee, if necessary to assist the Committee in
35 reviewing a report issued by the Legislative Auditor.

1 (c) [If] EXCEPT AS PROVIDED IN § 2-1225 OF THIS SUBTITLE, IF information
2 that an employee obtains during an audit or review also is confidential under another
3 law, the employee or the Legislative Auditor may not include in a report or otherwise
4 use the information in any manner that discloses the identity of any person who is the
5 subject of the confidential information.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 2003.